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50. The kit of claim 49, wherein said promoter is selected from the group consisting of an epithelial cell specific promoter, an endothelial cell specific promoter and a smooth muscle cell specific promoter.

**REMARKS**

The Examiner stated that the claims should be restricted into Group I (claims 1-5 and 8-38), Group II (claims 6, 7 and 40-43) and Group III (claim 39). Applicants respectfully submit that the claims of Groups II (claims 6, 7 and 40-43) and Group III (claim 39) do not require restriction because examination of all of the pending claims would not require additional searches or otherwise place a serious burden on the examiner. See MPEP 803. However, in an effort to advance prosecution, applicants have canceled the claims of Group II. During the telephone conference, Examiner Priebe stated that if claim 39 was amended to include the vector comprising the DNA sequence encoding  $\beta_2$ AR operably linked to the promoter, that claim 39 would be included in Group I. New claim 49 is previous claim 39 plus the vector feature, and is supported by the specification on page 12, lines 19-26 and page 23, lines 2-8. Therefore, claim 49 and its dependent claim 50 should be included in Group I. In regard to claims 44-48 and 50, these claims recite specific types of promoters that are useful in the present invention and are supported by the specification on page 20, lines 16-24 and in the original claims. Thus, new claims 44-50 should be included in Group I.

Applicants, of course, reserve the right to file one or more divisional applications covering the subject matter of the non-elected claims that have been canceled.

Respectfully submitted,

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**MARKED-UP CLAIMS**

9. (Amended) The method of claim [1] 8 wherein said epithelial cell is an airway epithelial cell.
10. (Amended) The method of claim [1] 8, wherein said vector is a viral vector or a non-viral vector.